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Post Office Box 10648
Arlington, VA 22210
Phone: 703-647-2700
Fax: 703-647-2993

October 11, 2004

Jeff S. Jordan
Supervisory Attorney
Complaints Examination and
Legal Administration
Federal Election Commission
999 E Street, NW
Washington, DC 22210

RECEIVED
FEDERAL ELECTION
COMMISSION
OFFICE OF GENERAL
COUNSEL
2004 OCT 25 10:03
~~RE: MUR 5489~~

Dear Mr. Jordan:

Bush-Cheney '04, Inc. and its treasurer David Herdon received the complaint designated as MUR 5489 on October 11, 2004 and hereby provides this response. This MUR appears nearly identical to MUR 5475 which we responded to and categorically denied.

This complaint is based on speculation, hearsay and conjecture. There is no evidence in news articles attached to the complaint that any Bush-Cheney '04, Inc. ("BC '04") resources were used to support Ralph Nader's candidacy for President or the any coordination occurred between Citizens for a Sound Economy and BC '04.

A reading of the news articles does not lead to or lend any support to what has been alleged. The media accounts to the complaint report that a message was left on an individual's answering machine leaving a return number that turned out to belong to the state office of BC '04. There is no suggestion or mention in the article that the message indicated that the call was made on behalf of BC '04 or was delivered using any resources of BC '04.

The complaint then extrapolates on a response to a press inquiry provided by Steve Schmidt, a spokesperson based in Arlington, VA. Mr. Schmidt denied that any paid BC '04 staff was involved in calls to encourage individuals to support Mr. Nader's candidacy or that the effort was a BC '04 activity. He acknowledged, in response to a specific press inquiry into whether such a call could have been made, the possibility existed that a volunteer could have made an unauthorized phone call without the knowledge of paid campaign staff. The complaint then takes this denial, twists it beyond the bounds of rational analysis, and uses Mr. Schmidt's denial of campaign involvement in Mr. Nader's candidacy to suggest that BC '04 was involved in a massive effort to assist Mr. Nader. Nothing in the factual record suggests that this occurred.

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Because of the complete lack of factual basis for the allegations contained in the complaint, BC '04 and David Herndon believe that the Commission should dismiss the complaint and take no further action in this matter.

Please do not hesitate to contact me at 703-647-2940 (telephone) or 703-647-2997 (fax) with questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Josefiak', with a long horizontal flourish extending to the right.

Thomas J. Josefiak
General Counsel

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